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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

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Winston & Strawn LLP
101 California Street
San Francisco, CA 94111-5802

MULTIVEN, INC., a Delaware corporation,

Plaintiff,

v.

CISCO SYSTEMS, INC., a California
corporation,

Defendant.

CISCO SYSTEMS, INC., a California
corporation, and CISCO TECHNOLOGY, INC.,
a California corporation,

Counterclaimants,

v.

MULTIVEN, INC., a Delaware corporation,
PINGSTA, INC., a Delaware corporation, and
PETER ALFRED-ADEKEYE, an individual,

Counterdefendants.

Case No. 5:08-cv-05391-JW (HRL)

STIPULATION AND [PROPOSED] ORDER
REGARDING DOCUMENTS
PROVISIONALLY FILED UNDER SEAL

WHEREAS, Plaintiff Multiven, Inc. and Counterdefendants Multiven, Inc., Pingsta, Inc., and Peter Alfred-Adekeye (Collectively, “Plaintiff and Counterdefendants”) designated certain portions of the Peter Alfred-Adekeye and Deka Yussuf deposition transcripts and all of the Basil Gray deposition transcript “Confidential – Attorneys’ Eyes Only” pursuant to paragraph 5.2(b) of the Stipulated Protective Order (“Protective Order”) (Docket Entry (“DE”) 46);

WHEREAS, on June 28, 2010, Defendant and Counterclaimant Cisco Systems, Inc. (“Cisco”) attached these transcripts as Exhibits C (Adekeye, DE 259.5), E (Yussuf, DE 259.7), and F (Gray, DE 259.8) to the Declaration of Patrick M. Ryan in Support of Cisco’s Opposition to Counterdefendants’ Motion to Stay Counterclaims (“Ryan Declaration,” DE 259);

WHEREAS, because these transcripts were designated “Confidential – Attorneys’ Eyes Only,” Cisco also filed on June 28, 2010, an administrative motion pursuant to L.R. 7-11 and 79-5 to seal these transcripts (the “Motion to Seal,” DE 260), seeking administrative relief to provisionally file these transcripts under seal;

WHEREAS, on July 14, 2010, the Court entered its Order Granting Cisco Systems, Inc.’s Administrative Motion to Seal (“Sealing Order,” DE 267), which states in pertinent part, “*The documents will be deemed unsealed if the non-moving party fails to comply with Civil Local Rule 79-5 (d) by filing a declaration, which provides a legitimate basis to seal the documents by the date required by that rule*” (Sealing Order, DE 267 at 2:10-12) (emphasis added);

WHEREAS, United States District Court for the Northern District of California Civil Local Rule 79-5(d) provides that “[i]f the designating party does not file its responsive declaration” within 7 days of such a court order, “the document . . . will be made part of the public record;”

WHEREAS, Plaintiff and Counterdefendants did not file or serve any declaration regarding the exhibits;

WHEREAS, Plaintiff and Counterdefendants have communicated to Cisco that they have designated the Gray deposition transcript;

WHEREAS, certain portions of the Adekeye and Yussuf transcripts contain Plaintiff and Counterdefendants’ confidential information, and the parties wish to protect that information while

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1 both serving the public interest in fair and open proceedings and complying with the Sealing Order
2 and the Local Rules;

3 WHEREAS, Cisco has refrained from the filing Exhibits C and E to the Ryan Declaration in
4 their entirety for that reason;

5 WHEREAS, the parties have consulted and have developed narrowly tailored redactions to
6 protect Plaintiff and Counterdefendants' confidential information, which are illustrated on the
7 attachments attached hereto as Attachment 1 (Adekeye) and Attachment 2 (Yussuf);

8 WHEREAS, Attachment 3 attached hereto is a full and complete copy of the Gray deposition
9 transcript with no redactions; and

10 NOW THEREFORE, it is hereby stipulated by the undersigned counsel on behalf of the
11 parties identified below that:

12 Cisco shall file in the public record, in lieu of the original exhibits to Docket Entry No. 259,
13 the versions of the exhibits appearing as attachment 1, 2, and 3 hereto, with attachment 1 replacing
14 Ryan Declaration Exhibit C (DE 259.5), attachment 2 replacing Ryan Declaration Exhibit E (DE
15 259.7), and attachment 3 replacing Ryan Declaration Exhibit F (DE 259.8).

16
17 Dated: February 22, 2011

Respectfully submitted,

18 CADWALADER, WICKERSHAM & TAFT LLP
19 700 Sixth Street, N.W.
20 Washington, DC 20001

21 By /s/ Joseph J. Bial
22 JOSEPH J. BIAL
23 Attorneys for Plaintiff
24 MULTIVEN, INC.
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26
27
28

1 Dated: September 18, 2010

Respectfully submitted,
2 ROPERS, MAJESKI, KOHN & BENTLEY
515 S. Flower Street, Suite 1100
3 Los Angeles, CA 90071

4 By /s/ Thomas M. O'Leary
THOMAS M. O'LEARY
5 Attorneys for Counterdefendants
6 MULTIVEN, INC., PINGSTA, INC. and
PETER ALFRED-ADEKEYE

7
8 Dated: February 22, 2011

Respectfully submitted,
9 WINSTON & STRAWN LLP
10 101 California Street
San Francisco, CA 94111-5802

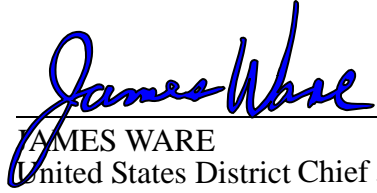
11 By /s/ Patrick M. Ryan
12 PATRICK M. RYAN
13 Attorneys for Defendant and Counterclaimant
14 CISCO SYSTEMS, INC. and Counterclaimant
CISCO TECHNOLOGY, INC.

15 I, Patrick M. Ryan, hereby attest, pursuant to N.D. Cal. General Order No. 45, that the
16 concurrence to the filing of this document has been obtained from each signatory hereto.

17
18 /s/ Patrick M. Ryan
PATRICK M. RYAN

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: February 23, 2011


JAMES WARE
United States District Chief Judge

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